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01/28/02

# DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

(COMPLETE IF KNOWN)

Application Number	09/955,472
Filing Date	9/17/01
Group Art Unit	To be assigned
Examiner	To be assigned

Attorney Docket Number	3882/11A
First Named Inventor	To

This declaration is (check one):

- ☐ submitted with initial filing;  
☒ submitted after initial filing;  
☐ a supplemental declaration.

This application is of the following type:

- ☒ utility;  
☐ design;  
☐ national stage of PCT;  
☐ divisional, continuation or continuation-in-part.

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

## METHOD AND APPARATUS FOR DETERMINING AND RESOLVING MISSING TOPOLOGY FEATURES OF A NETWORK FOR IMPROVED TOPOLOGY ACCURACY

the specification of which: (check one)

- ☐ is attached hereto; or  
☒ was filed on September 17, 2001 as U.S. Application Serial No. 09/955,472 and is/was amended on \_\_\_\_\_ (if applicable);  
☐ was described and claimed in PCT International Application No. \_\_\_\_\_, filed on \_\_\_\_\_ and was amended under PCT Article 19 on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby identify below, and where indicated claim foreign priority benefits under Title 35, United States Code §§ 119(a)-(d) or §§ 365(a)-(b) of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America, filed within 12 months (6 months for design) prior to this application, and have also identified below any foreign application(s) for patent or inventor's

Page 1 of 3

BRMFS: 269789v1

certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) on which priority is claimed (if any):

Foreign/PCT Application Number	Country	Filing Date (MM/DD/YYYY)	Priority Claimed	
			<input type="checkbox"/> Yes	<input type="checkbox"/> No
			<input type="checkbox"/> Yes	<input type="checkbox"/> No
			<input type="checkbox"/> Yes	<input type="checkbox"/> No

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below (if any):

Provisional Application No.	Filing Date

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(c) of any PCT International Application designating the United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

U.S./PCT Parent Application No.	Filing Date	Status ( <i>Patented, Pending, or Abandoned</i> )

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

As a named inventor, I hereby appoint the following attorney(s) or agent(s) with full power of substitution and revocation to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Seth H. Ostrow, Reg. No. 37,410  
 Leslie Restaino, Reg. No. 38,893  
 Ralph F. Hoppin, Reg. No. 38,494  
 Silvana Merlino, Reg. No. 44,237  
 Brooke W. Quist, Reg. No. 45,030

Frank J. DeRosa, Reg. No. 26,543  
 Pamela G. Maher, Reg. No. 40,712  
 Matthew J. Marquardt, Reg. No. 40,997  
 Frederick Yu, Reg. No. 45,251  
 James W. Woods, Reg. No. 47,184

Direct all correspondence to:

Brown Raysman Millstein Felder & Steiner LLP  
 900 Third Avenue  
 New York, New York 10022

Direct all telephone calls to:

(212) 895-2000

Full Name of Sole or First Inventor	Hing Wing TO		
Inventor's Signature	<i>Hing Wing TO</i>	Date	21 December 2001
Residence	London, England	Citizenship	Great Britain
Post Office Address	Ground Floor Flat, 5 Fairholme Road, London, W14 9JZ, England		

Full Name of Second Joint Inventor	Christopher APPLETON		
Inventor's Signature		Date	
Residence	Kent, England	Citizenship	Great Britain
Post Office Address	63 Forest Road, Slade Green, Erith, Kent, DA8 2NU, England		

(check one) Sheets containing additional joint inventors ☐ are, ☒ are not attached hereto.

# DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

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Page 1 of 3

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certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) on which priority is claimed (*if any*):

Foreign/PCT Application Number	Country	Filing Date (MM/DD/YYYY)	Priority Claimed	
			<input type="checkbox"/> Yes	<input type="checkbox"/> No
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Frank J. DeRosa, Reg. No. 26,543  
 Pamela G. Maher, Reg. No. 40,712  
 Matthew J. Marquardt, Reg. No. 40,997  
 Frederick Yu, Reg. No. 45,251  
 James W. Woods, Reg. No. 47,184

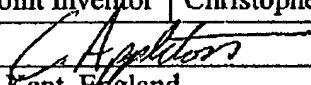
Direct all correspondence to:

Brown Raysman Millstein Felder & Steiner LLP  
 900 Third Avenue  
 New York, New York 10022

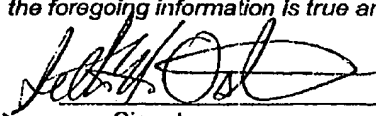
Direct all telephone calls to:

(212) 895-2000

Full Name of Sole or First Inventor	Hing Wing TO		
Inventor's Signature		Date	
Residence	London, England	Citizenship	Great Britain
Post Office Address	Ground Floor Flat, 5 Fairholme Road, London, W14 9JZ, England		

Full Name of Second Joint Inventor	Christopher APPLETON		
Inventor's Signature		Date	21-DEC-2001
Residence	Kent, England	Citizenship	Great Britain
Post Office Address	63 Forest Road, Slade Green, Erith, Kent, DA8 2NU, England		

(check one) Sheets containing additional joint inventors ☐ are, ☒ are not attached hereto.

<b>3882/11A</b>		<b>RECORDATION FORM COVER SHEET</b> <b>PATENTS ONLY</b>	
To the Honorable Commissioner of Patents and Trademarks. Please record the attached original documents or copy thereof.			
1. Name of conveying party(ies): Hing Wing TO Christopher APPLETON  Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		2. Name and address of receiving party(ies): Name: <u>Micromuse Ltd.</u> Address: <u>90 Putney Bridge Road</u> <u>London SW18 1DA, England</u>  City: _____ State: _____ ZIP: _____  Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
3. Nature of conveyance:  <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____  Execution Date: <u>December 21, 2001</u>		APR 02 2002	
4. Application number(s) or patent number(s)  If this document is being filed together with a new application, the execution date of the application is: _____			
A. Patent Application No.(s): <u>09/955,472</u>		B. Patent No.(s)	
Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
5. Name and address of party to whom correspondence concerning document should be mailed:  BROWN RAYSMAN MILLSTEIN FELDER & STEINER LLP 900 Third Avenue New York, New York 10022 (212) 895-2000		6. Total number of applications and patents involved: <u>1</u>  7. Total fee (37 CFR 3.41):..... \$ <u>40.00</u> <input checked="" type="checkbox"/> Check enclosed <input type="checkbox"/> Authorized to be charged to deposit account  8. Deposit account number: <u>02-4270</u> (Attach duplicate copy of this page by deposit account) Please charge any additional fees required, or credit any overpayment, to the above deposit account	
DO NOT USE THIS SPACE			
9. Statement and signature. <i>To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.</i>			
<u>Seth H. Ostrow, Reg. No. 37,410</u> Name of Person Signing		 Signature	
Total number of pages including cover sheet, attachments and document: <u>4</u>		<u>January 9, 2002</u> Date	
Mail documents to be recorded with required cover sheet information to: Commissioner of Patents and Trademarks Box Assignments Washington, D.C. 20231			

Date: January 9, 2002

Applicant: TO et al.

Serial No.: 09/955,472

Filed: September 17, 2001

Title: METHOD AND APPARATUS FOR DETERMINING AND RESOLVING  
MISSING TOPOLOGY FEATURES OF A NETWORK FOR IMPROVED  
TOPOLOGY ACCURACY

Box Assignments

Commissioner for Patents

Washington, DC 20231

Docket No.: 3882/11A

Atty/Secy: SHO/dmt

To the individual receiving this correspondence, please check the contents  
enclosed herewith and verify that the following items were enclosed by date  
stamping and placing this post card in the out-going mail. Thank you.

- ☐ Recordation Form Cover Sheet - Patent
- ☐ Executed Assignment
- ☐ Check \$40.00

APR 02 2002

3882/11A

**ASSIGNMENT**

WHEREAS, we, Hing Wing TO, a citizen of the United Kingdom, residing at Ground Floor Flat, 5 Fairholme Road, London, W14 9JZ, England, and Christopher APPLETON, a citizen of the United Kingdom, residing at 63 Forest Road, Slade Green, Erith, Kent, DA8 2NU, England have invented one or more inventions (hereinafter referred to as "said invention(s)") disclosed in an application for Letters Patent of the United States titled METHOD AND APPARATUS FOR DETERMINING AND RESOLVING MISSING TOPOLOGY FEATURES OF A NETWORK FOR IMPROVED TOPOLOGY ACCURACY (hereinafter referred to as "said application"), said application having been filed on September 17, 2001, and assigned application Serial No. 09/955,472.

WHEREAS, Micromuse Ltd. (hereinafter together with its successors and assigns referred to as "Assignee"), a British corporation, having a place of business at 90 Putney Bridge Road, London SW18 1DA, England, is desirous of obtaining all right, title and interest in, to and under the Assigned Patent Application and the Invention; and

NOW, THEREFORE, for good and valuable considerations, the receipt and sufficiency of which Assignor does hereby acknowledge, Assignor has sold, assigned, transferred and set over, and by these presents hereby sells, assigns, transfers and sets over to the Assignee all right, title and interest in, to and under said Inventions and the Assigned Patent Applications, including the right to apply for any Letters Patent of the United States of America and in any and all foreign countries on the Assigned Patent Applications, and any and all other applications for Letters Patent on Assigned Patent Applications, in whatsoever countries, including all divisional, renewal, substitute, continuation, continuation-in-part and convention applications based in whole or in part upon the Assigned Patent Applications or upon the Inventions, and any all Letters Patent which may issue thereon in the United States and foreign countries, and any and all reissues, extensions, renewals, divisions, continuations or continuations-in-part of Letters Patent granted for the Assigned Patent Applications or upon the Inventions, to the full term or terms for which said Letters Patent may be issued, and every priority right that is or may be predicated upon or arise from the Assigned Patent Applications and said Letters Patent, the same to be held and enjoyed by the Assignee for its own use and benefit fully and entirely as if the same would have been held and enjoyed by Assignor had this Assignment not been made. Assignor authorizes Assignee to file patent applications in any and all countries on any or all of the Assigned Patent Applications in its name, or otherwise as Assignee may deem advisable, under the International Convention or otherwise.

Assignor authorizes the Commissioner of Patents and Trademarks of the United States, and any official of any other country empowered to issue patents, to record this Assignment, and to issue or transfer all said Letters Patent on the Assigned Patent Applications to Assignee as owner of all right, title and interest therein, or otherwise as the Assignee may direct, in accordance with the terms of this Assignment.

Assignor represents and warrants that Assignor has the full right to convey the entire right and interest herein assigned, that there are no rights or interests outstanding inconsistent with the rights and interests granted herein, and that Assignor will not execute any


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instrument or grant or transfer any rights or interests inconsistent with the rights and interests granted herein.

Assignor hereby covenants and agrees that Assignor will, upon request of Assignee, communicate to Assignee any facts known to Assignor relating to the Assigned Patent Applications, the Inventions, and the history thereof, and generally do all acts which may be deemed necessary by Assignee to obtain and enforce proper patent protection for the Assigned Patent Applications and the Inventions in all countries.

IN TESTIMONY WHEREOF, we have executed this document on the date indicated below.

Date: 21 December 2001

  
(Signature) Hing Wing TO

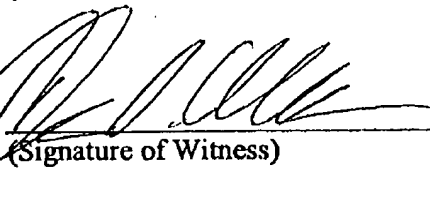
Witnessed by:

  
(Signature of Witness)

7/1/02  
Date

191 Westbourne Grove, London, W11 2SB  
(Printed name and address of Witness)

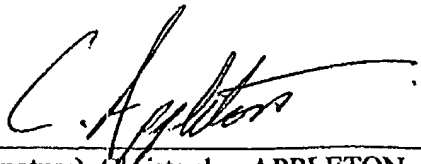
Witnessed by:

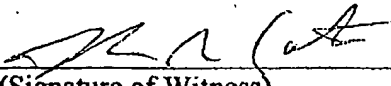
  
(Signature of Witness)

1-7-02  
Date

Alan Williams 1921 Via Vinady, San Antonio, TX 78258  
(Printed name and address of Witness)

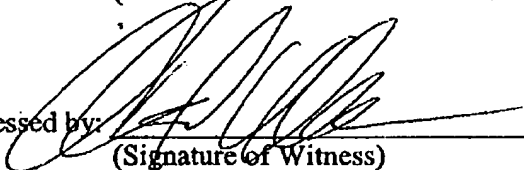
Date: 21-DEC-2001

  
(Signature) Christopher APPLETON

Witnessed by:   
(Signature of Witness)

7/1/02  
Date

191 Westbourne Grove, London, W11 2SB  
(Printed name and address of Witness)

Witnessed by:   
(Signature of Witness)

7/7/02  
Date

Alan Williams 1921 Via Vineda, San Antonio, TX 78231  
(Printed name and address of Witness)